United Nations S/AC.49/2009/25

Security Council

Distr.: General
5 August 2009

Original: English/French

Security Council Committee established pursuant to resolution 1718 (2006)

Letter dated 31 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of Canada to the United Nations addressed to the Chairman of the Committee

In your capacity as Chairman of the 1718 (2006) Committee, please find enclosed Canada's report on the implementation of measures decided by Security Council resolution 1874 (2009) (see annex).

(*Signed*) Henri-Paul **Normandin**
Chargé d'affaires a.i.

09-46165 (E) 250809

Please recycle

Annex to the letter dated 31 July 2009 from the Chargé d'affaires a.i. of the Permanent Mission of Canada to the United Nations addressed to the Chairman of the Committee

Report of Canada on the implementation of measures in Security Council resolutions 1718 (2006) and 1874 (2009)

Paragraph 22 of Security Council resolution 1874 (2009), adopted on 12 June 2009, requests all States Members of the United Nations to report to the Security Council on measures taken to implement effectively the provisions of paragraph 8 of resolution 1718 (2006), and paragraphs 9 and 10, as well as the financial measures set out in paragraphs 18, 19 and 20 of resolution 1874 (2009).

Canada wishes to inform the Committee that it is effectively implementing the decisions of the Security Council contained in resolutions 1718 (2006) and 1874 (2009) through the application of the *Regulations Implementing the United Nations Resolutions on the Democratic People's Republic of Korea* (the DPRK Regulations) (SOR/2009-232) made under the *United Nations Act*, the *Export and Import Permits Act* and the *Immigration and Refugee Protection Act*, and it is responding to the Security Council's call upon Member States in paragraphs 18, 19 and 20 of resolution 1874 (2009) as follows:

Paragraph 8 (a) of resolution 1718 (2006):

All Member States shall prevent the direct or indirect supply, sale or transfer to the Democratic People's Republic of Korea, through their territories or by their nationals, or using their flag vessels or aircraft, and whether or not originating in their territories of:

(i) Any battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register on Conventional Arms, or related materiel including spare parts, or items as determined by the Security Council or the Committee established by paragraph 12 below (the Committee);

(ii) All items, materials, equipment, goods and technology as set out in the lists in documents S/2006/814 and S/2006/815, unless within 14 days of adoption of this resolution the Committee has amended or completed their provisions also taking into account the list in document S/2006/o16, as well as other items, materials, equipment, goods and technology, determined by the Security Council or the Committee, which could contribute to the Democratic People's Republic of Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes;

(iii) Luxury goods.

Paragraph 10 of resolution 1874 (2009):

Decides *that the measures in paragraph 8 (a) of resolution 1718 (2006) shall also apply to all arms and related materiel, as well as to financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms, except for small arms and light*

weapons and their related materiel, and calls upon States to exercise vigilance over the direct or indirect supply, sale or transfer to the Democratic People's Republic of Korea of small arms or light weapons, and further decides that States shall notify the Committee at least five days prior to selling, supplying or transferring small arms or light weapons to the Democratic People's Republic of Korea.

Pursuant to section 3 of the DPRK Regulations, all Canadians and all persons in Canada are prohibited from exporting, selling, supplying, transferring or shipping, directly or indirectly, any of the items covered in subparagraphs 8 (a) (i) to (iii) of resolution 1718 (2006) and the items covered under paragraph 10 of resolution 1874 (2009) to the Democratic People's Republic of Korea or any person in the Democratic People's Republic of Korea.

Pursuant to section 4 of the DPRK Regulations, owners or masters of Canadian vessels and operators of aircraft registered in Canada may not carry, cause to be carried or permit to be carried to the Democratic People's Republic of Korea any of the items covered in subparagraphs 8 (a) (i) to (iii) of resolution 1718 (2006) or paragraph 10 of resolution 1874 (2009).

Pursuant to section 6.1 of the DPRK Regulations, all Canadians and all persons in Canada are prohibited from engaging in financial transactions related to the provision, manufacture, maintenance or use of arms and related materials whose export, sale supply, transfer or shipment is prohibited by paragraph 10 of resolution 1874 (2009).

Pursuant to section 7 of the DPRK Regulations, all Canadians and all persons in Canada are prohibited from knowingly providing or transferring, to any person in the Democratic People's Republic of Korea, technical assistance related to the provision, manufacture, maintenance or use of arms and related material or resources contributing to the Democratic People's Republic of Korea's weapons programmes.

Pursuant to section 10 of the DPRK Regulations, all Canadians and all persons in Canada are prohibited from doing anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited by sections 3, 4, 6.1 or 7 of the DPRK Regulations.

In accordance with paragraphs 10 of resolution 1874 (2009), section 15.1 of the DPRK Regulations allows for an exemption for the export, sale, supply, transfer or shipment of small arms and light weapons.

Further, the *Export and Import Permits Act* requires a permit for the export from Canada of all goods and technology listed on the *Export Control List*. All military and strategic dual-use items, as defined by the appropriate international export control regimes, are listed on the *Export Control List*, and therefore require a permit in order to be lawfully exported from Canada to the Democratic People's Republic of Korea. Since the adoption of resolution 1718 (2006), no permit has been issued for the export of military or strategic dual-use items from Canada to the Democratic People's Republic of Korea.

Paragraph 8 (b) of resolution 1718 (2006):

The Democratic People's Republic of Korea shall cease the export of all items covered in subparagraphs (a) (i) and (a) (ii) above and that all Member States shall

prohibit the procurement of such items from the Democratic People's Republic of Korea by their nationals, or using their flagged vessels or aircraft and whether or not originating in the territory of the Democratic People's Republic of Korea.

Paragraph 9 of resolution 1874 (2009):

Decides *that the measures in paragraph 8 (b) of resolution 1718 (2006) shall also apply to all arms and related materiel, as well as to financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms or materiel.*

Pursuant to section 5 of the DPRK Regulations, all Canadians and all persons in Canada are prohibited from importing, buying or procuring from the Democratic People's Republic of Korea any of the items covered in subparagraphs 8 (a) (i) and 8 (a) (ii) of resolution 1718 (2006) or paragraph 9 of resolution 1874 (2009).

Pursuant to section 6 of the DPRK Regulations, owners or masters of Canadian vessels and operators of aircraft registered in Canada may not carry, cause to be carried or permit to be carried any of the items covered in subparagraphs 8 (a) (i) or (ii) of resolution 1718 (2006) or paragraph 9 of resolution 1874 (2009).

Pursuant to section 6.2 of the DPRK Regulations, all Canadians and all persons in Canada are prohibited from engaging in financial transactions related to the provision, manufacture, maintenance or use of arms and related materials whose import or procurement is prohibited by paragraph 9 of resolution 1874 (2009).

Pursuant to section 7 of the DPRK Regulations, all Canadians and all persons in Canada are prohibited from knowingly providing or transferring, to any person in the Democratic People's Republic of Korea, technical assistance related to the provision, manufacture, maintenance or use of arms and related material of resources contributing to the Democratic People's Republic of Korea's weapons programme.

Pursuant to section 10 of the DPRK Regulations, all Canadians and all persons in Canada are prohibited from doing anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited by sections 5, 6, 6.2 and 7 of the DPRK Regulations.

Further, many of the goods set out in subparagraphs 8 (a) (i) and 8 (a) (ii) of resolution 1718 (2006) and paragraph 9 of resolution 1874 (2009) are subject to import controls under the *Import Control List* under the *Export and Imports Permits Act*.

Paragraph 8 (c) of resolution 1718 (2006):

All Member States shall prevent any transfers to the Democratic People's Republic of Korea by their nationals or from their territories, or from the Democratic People's Republic of Korea by its nationals or from its territory of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items in subparagraphs (a) (i) and (a) (ii) above.

Pursuant to section 7 of the DPRK Regulations all Canadians and all persons and entities in Canada are prohibited from providing or transferring technical

assistance related to the provision, manufacture, maintenance or use of any of the items covered in subparagraphs 8 (a) (i) and 8 (a) (ii) of resolution 1718 (2006).

Pursuant to section 8 of the DPRK Regulations, all Canadians and all persons and entities in Canada are prohibited from accepting the provision or transfer, from any person in the Democratic People's Republic of Korea or from any citizen of the Democratic People's Republic of Korea of technical assistance related to the provision, manufacture, maintenance or use of the items covered in subparagraphs 8 (a) (i) and 8 (a) (ii) of resolution 1718 (2006).

Pursuant to section 10 of the DPRK Regulations, all persons in Canada and all Canadians abroad are prohibited from doing anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited by sections 7 and 8.

Further, the *Export and Import Permits Act* requires a permit for the export from Canada of technology listed on the *Export Control List*. Technology (including technical training, advice, services or assistance), as defined by the appropriate international export control regimes, is listed on the *Export Control List* and therefore requires a permit, in order to be lawfully transferred from Canada to the Democratic People's Republic of Korea. Since the adoption of resolution 1718 (2006), no permit has been issued for the export or transfer of technology from Canada to the Democratic People's Republic of Korea.

Paragraph 8 (d) of resolution 1718 (2006):

All Member States shall, in accordance with their respective legal processes, freeze immediately the funds, other financial assets and economic resources which are on their territories at the date of the adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons or entities designated by the Committee or by the Security Council as being engaged in or providing support for, including through other illicit means, the Democratic People's Republic of Korea's nuclear-related, other weapons of mass destruction-related and ballistic missile-related programmes, or by persons or entities acting on their behalf or at their direction, and ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any persons or entities within their territories, to or for the benefit of such persons or entities.

Pursuant to section 9 of the DPRK Regulations, all persons in Canada and all Canadians outside Canada are prohibited from:

(a) Dealing, directly or indirectly, in any property in Canada as at 14 October 2006 or at any time after that date, that is owned or controlled, directly or indirectly, by a designated person (i.e., persons designated by the Security Council or the 1718 (2006) Committee) or by a person acting on behalf of, or at the direction of, a designated person;

(b) Entering into or facilitating financial transactions related to dealings referred to in paragraph (a) above;

(c) Providing financial or related services in respect of the property referred to in paragraph (a) above; or

(d) Making any property or any financial or other related service available, directly or indirectly, to or for the benefit of a designated person.

In accordance with paragraph 9 of the resolution, section 15 of the DPRK Regulations also allows for exemptions to the assets freeze.

In addition, pursuant to section 10 of the DPRK Regulations, all persons in Canada and all Canadians abroad are prohibited from doing anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited by section 9.

Paragraph 8 (e) of resolution 1718 (2006):

All Member States shall take the necessary steps to prevent the entry into or transit through their territories of the persons designated by the Committee or by the Security Council as being responsible for, including through supporting or promoting, Democratic People's Republic of Korea policies in relation to the Democratic People's Republic of Korea's nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes, together with their family members, provided that nothing in this paragraph shall oblige a state to refuse its own nationals entry into its territory.

Section 35 of the *Immigration and Refugee Protection Act* enables Canada to prevent the entry into or transit through its territory of all persons to be designated by the Security Council or the Committee of the Security Council. The *Immigration and Refugee Protection Act* also allows for exemptions to the travel ban in accordance with paragraph 10 of the resolution.

Paragraph 18 of resolution 1874 (2009):

Calls upon *Member States, in addition to implementing their obligations pursuant to paragraphs 8 (d) and (e) of resolution 1718 (2006), to prevent the provision of financial services or the transfer to, through, or from their territory, or to or by their nationals or entities organized under their laws (including branches abroad), or persons or financial institutions in their territory, of any financial or other assets or resources that could contribute to the Democratic People's Republic of Korea's nuclear-related, ballistic missile-related, or other weapons of mass destruction-related programmes or activities, including by freezing any financial or other assets or resources on their territories or that hereafter come within their territories, or that are subject to their jurisdiction or that hereafter become subject to their jurisdiction, that are associated with such programmes or activities and applying enhanced monitoring to prevent all such transactions in accordance with their national authorities and legislation.*

In response to the call upon Member States in paragraph 18 , Canada's Office of the Superintendent of Financial Institutions has issued a notice to all federally regulated financial institutions (FRFI) which recommends that FRFIs should determine whether clients and their business activities include any involvement in trade or in industries involved in the Democratic People's Republic of Korea's nuclear-related, ballistic missile-related or weapons of mass destruction-related programmes or activities. Federally regulated financial institutions were also encouraged to classify all activity associated with the Democratic People's Republic of Korea as high risk and to conduct enhanced monitoring of client accounts that

have a connection to the Democratic People's Republic of Korea, including by using information collected pursuant to anti-money laundering and anti-terrorist financing programmes to identify and monitor high-risk customers and transactions connected to the Democratic People's Republic of Korea.

Paragraphs 19 and 20 of resolution 1874 (2009):

Calls upon *all Member States and international financial and credit institutions not to enter into new commitments for grants, financial assistance, or concessional loans to the Democratic People's Republic of Korea except for humanitarian and developmental purposes directly addressing the needs of the civilian population, or the promotion of denuclearization and also calls upon States to exercise enhanced vigilance with a view to reducing current commitments;*

Calls upon *all Member States not to provide public financial support for trade with the Democratic People's Republic of Korea (including the granting of export credits, guarantees or insurance to their nationals or entities involved in such trade) where such financial support could contribute to the* Democratic People's Republic of Korea's nuclear-related or ballistic missile-related or other weapons of mass destruction-related programmes or activities.

Export Development Canada (EDC), Canada's export credit agency, supports global trade and investment through the provision of export credits, guarantees and insurance products.

In response to the call upon Member States in paragraphs 19 and 20, EDC will not support transactions that could reasonably contribute to the Democratic People's Republic of Korea's nuclear-related or ballistic missile-related or weapons of mass destruction-related programmes or activities. In addition, in order to encourage the strong implementation of resolution 1874 (2009), and given the country commercial risk environment, EDC has implemented an internal policy of no provision of financial assistance support through export credits, guarantees or insurance for exports to or investments in the Democratic People's Republic of Korea. Transactions which have fully mitigated the country risks and have a humanitarian and/or developmental purpose that directly addresses the needs of the civilian population or the promotion of denuclearization may be reviewed on a case-by-case basis.

Canada, through the Canadian International Development Agency (CIDA), provides humanitarian assistance to the Democratic People's Republic of Korea via trusted humanitarian partners. At present, Canada does not provide any development assistance to the Democratic People's Republic of Korea.

Ottawa, 31 July 2009